

CHAPTER 43-20 DENTAL HYGIENISTS

43-20-01. Name of chapter. This chapter must be known and cited as the Dental Hygienist Act of North Dakota.

43-20-02. Dental hygienists - Qualifications - Examinations - Registration and license. Any person who is of good moral character, who is not already a licensed dental hygienist of this state, who is a graduate of an accredited high school or its equivalent, and who is a graduate of a school of dental hygiene which is approved or provisionally approved by the commission on dental accreditation of the American dental association and which provides a minimum of two academic years of dental hygiene curriculum, upon applying for a license and paying an amount determined by the state board of dental examiners, may be examined by the board, on the subjects considered essential by it for a dental hygienist. The examinations must be conducted by the board or by a designee of the board, or by a regional dental testing service in which the board participates, or by other national or regional dental testing services that the board recognizes. If the applicant, in the opinion of the board, successfully passes the examination, the applicant may be registered and licensed as a dental hygienist. Applicants who fail to pass a satisfactory initial examination may be reexamined upon payment of the fee determined by the board for each subsequent examination. The board shall determine the number of times an applicant may be reexamined. However, if the applicant fails on three occasions to pass the examination given by the board or an equivalent examination under section 43-28-12.1, the applicant shall provide evidence of additional education as required by the board before applying for another examination in this state. Applicants for examination shall submit their credentials to the board at least thirty days before the examination date. The examination date must correspond to the date of examination for applicants for a license to practice dentistry in this state.

The state board of dental examiners may accept the results of the national board examination as the equivalent to the testing of an applicant by the board in all areas covered by the national board examination.

43-20-02.1. Conviction not bar to licensure - Exceptions. Conviction of an offense does not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a dental hygienist, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

43-20-03. Dental hygienists - Practice by. As used in this chapter, "dental hygiene" and the practice thereof means the removal of accumulated matter from the natural and restored surfaces of teeth and from restorations in the human mouth, the polishing of such surfaces, and the topical application of drugs to the surface tissues of the mouth and to the surface of teeth if such acts are performed under the direct, modified general, or general supervision of a licensed dentist. General supervision may be utilized only if the following conditions are met:

1. The patient is a patient of record who has been examined by the dentist within the past twelve months;
2. The patient is being treated at the primary or satellite practice location of the supervising dentist, a public health setting, a hospital, a long-term care facility, or in an institutional type setting;
3. A current treatment plan is in place; and
4. Any delegated procedure is preauthorized by the supervising dentist.

Only a person licensed as a dental hygienist may be referred to as a dental hygienist. Additional tasks permitted to be performed by licensed dental hygienists may be outlined by the board of dental examiners by appropriate rules.

43-20-04. License recorded - Fee. Repealed by S.L. 1991, ch. 465, § 23.

43-20-05. Licenses - Suspension, revocation, refusal to renew, and reinstatements.

The board of dental examiners may suspend or revoke, with power to reinstate, or refuse to renew a dental hygienist's license, upon any one or more of the following grounds:

1. Gross immorality or unprofessional conduct, which includes knowingly failing to comply with commonly accepted national infection control guidelines and standards.
2. Failure, neglect, or refusal to renew a license biennially.
3. Nonobservance or violation of this chapter, or of any board rule adopted under this chapter.
4. Gross inefficiency in the practice of dental hygiene. The board may suspend or revoke, with power to reinstate, the license of any licensed dentist who permits any dental hygienist, operating under the dentist's supervision, to perform any operation other than that permitted under this chapter, or who knowingly permits any person who is not a licensed dental hygienist to perform any operations or services as such under that dentist's supervision.

The procedure to be followed in the case of a suspension, revocation, or reinstatement must be the same as that prescribed by law in the case of suspension, revocation, or reinstatement of a licensed dentist.

43-20-06. License - Cancellation - Inactive status. At least thirty days before January first of each even-numbered year, the board of dental examiners shall send a renewal notice that includes a form for continuing education reporting and an application for license renewal to each licensee at the licensee's last place of residence as noted in the records of the board. If a licensee fails to pay the biennial fee for the renewal of the certificate of registration on or before the due date of the payment, after thirty days written notice of the default, the board may cancel the license without a hearing. The board shall record the cancellation and notify the dental hygienist of the cancellation. The payment of the biennial fee within that thirty-day period, with an additional sum determined by the board, excuses the default. Upon payment of a fee determined by the board, a licensee may request to have the licensee's license placed on inactive status upon expiration of the license. While on inactive status, the individual may not engage in the practice of dental hygiene in the state until the individual submits a renewal application, pays the renewal fee, and meets any additional requirements established by rule of the board.

43-20-07. Licensure by credential review. Any dental hygienist who is a graduate of a school of dental hygiene which is approved or provisionally approved by the commission on dental accreditation of the American dental association and which provides a minimum of two academic years of dental hygiene curriculum, who has been licensed and who has been actively practicing dental hygiene for at least three years prior to the application to practice in this state, who is of good moral character and desirous of removing to this state, who deposits with the board of dental examiners a license from the examining board of the state in which the dental hygienist is licensed, certifying to the fact of being licensed, and who provides reference letters from three dentists or hygienists attesting to the dental hygienist's clinical competence, good moral character, and professional attainment, may upon the payment of the fee determined by the board, in the discretion of the board, and upon the satisfactory passing of such examinations as the board deems necessary and proper, be granted a license to practice in this state.

43-20-08. Unlawful to employ unlicensed hygienist - Unlawful to practice without license. No person may practice dental hygiene in the state of North Dakota, without first

obtaining from the North Dakota state board of dental examiners a license authorizing such person to practice dental hygiene in this state, and it is unlawful for any person to employ an unlicensed dental hygienist for the performance of any operations or services as such, or permit such unlicensed person to perform any operations or services as such, under that person's supervision.

43-20-09. Violation of chapter a misdemeanor. Any person violating any provision of this chapter is guilty of a class B misdemeanor.

43-20-10. State board of dental examiners - Authority - Duty. The North Dakota state board of dental examiners has the power and it is its duty to enforce the provisions of this chapter. The board has the power to make such rules and regulations, not inconsistent with this chapter, as may, in its judgment, be necessary for the proper enforcement of this chapter, and the examination of dental hygienists for their conduct and practice.

43-20-11. Practice of dental hygiene supplemental to practice of dentistry. The practice of dental hygiene is hereby declared to be supplemental and auxiliary to the practice of dentistry in North Dakota. All particulars, requirements, regulations, control, and provisions of chapter 43-28 apply with equal force wherein and so far as they may be applicable to the practice of dental hygienists, except as otherwise provided for in this chapter.

43-20-12. Dental hygienist - Scope of permitted practice. A licensed dentist may delegate to a competent dental hygienist those procedures over which the dentist exercises full responsibility, except those procedures that require professional judgment and skill such as diagnosis and treatment planning, the cutting of hard or soft tissue, or any intraoral procedure which would lead to the fabrication of any appliance that, when worn by the patient, would come in direct contact with hard or soft tissue and which could result in tissue irritation or injury. The board of dental examiners may adopt rules governing the scope of practice of dental hygienists.

43-20-12.1. Continuing educational requirement for dental hygienists.

1. At least thirty days before January first of each even-numbered year, the board of dental examiners shall send a renewal notice that includes an affidavit for reporting of continuing education and an application for license renewal to each licensee at the licensee's last place of residence as noted in the records of the board. Each individual licensed to practice dental hygiene in this state shall provide the state board of dental examiners evidence, of a nature suitable to the board, that the licensee has attended, or participated in, the amount of continuing education in dental hygiene as is required by the board. The minimum requirement may not be less than sixteen hours during the preceding two years of licensure. The board may accept for compliance with the continuing education requirement any of the following which, in the opinion of the board, contributes directly to the dental education of the licensee:
 - a. Proof of attendance at lectures, study clubs, college postgraduate courses, or scientific sessions of conventions.
 - b. Proof of research, graduate study, teaching, or service as a clinician.
 - c. Proof of any other continuing education approved by the board.
2. The board may select a random sample of the license renewal applications for audit of continuing education credits. Each licensee shall maintain certificates or records of credit from continuing education activities. If a licensee is selected for an audit of the licensee's continuing education activities, the licensee shall provide satisfactory documentation of attendance at or participation in the continuing education activities listed on the licensee's sworn affidavit. The failure to comply with the audit may be grounds for nonrenewal of the licensee's license. Any licensee who fails to comply with the continuing education requirement may, at the discretion of the board, be

reexamined to determine the individual's competency to continue licensure. If, in the opinion of the board, the individual does not qualify for further licensed practice, the board shall suspend the license until the dental hygienist provides acceptable evidence to the board of the hygienist's competency to practice.

43-20-12.2. Notice to board of change of address. A licensed dental hygienist shall notify the secretary-treasurer of the board of dental examiners of any new address within thirty days of the address change. A licensed dental hygienist may not practice in this state for more than thirty days after the change of address without complying with this section.

43-20-12.3. Supervised administration of anesthesia - Board rules. A licensed dentist may delegate to a dental hygienist licensed by the board the administration of block and infiltration anesthesia to a patient who is at least eighteen years old. The dental hygienist must be under the direct supervision of a dentist and the dental hygienist must complete the educational requirements as required by the commission on dental accreditation and approved by the board. The board shall adopt rules to implement this section.

43-20-13. Dental assistant - Scope of permitted practice. A dentist may delegate to a dental assistant procedures over which the dentist exercises full responsibility. A dental assistant may perform any delegated procedure over which the dentist exercises direct, indirect, or general supervision as permitted by rules adopted by the board of dental examiners.

43-20-13.1. Continuing education requirement for registered dental assistants.

1. At least thirty days before January first of each year the board of dental examiners shall send a renewal notice that includes an affidavit for continuing education reporting and an application for registration renewal to each registrant at the registrant's last place of residence as noted in the records of the board. If a licensee fails to pay the fee for the renewal of the certificate of registration on or before the due date of the payment, after thirty days' written notice of the default, the board may cancel the license without a hearing. The board shall record the cancellation and notify the dental assistant of the cancellation. Each individual registered as a dental assistant shall provide the board evidence satisfactory to the board that the individual has attended or participated in the amount of continuing education as is required by the board. The board may establish a minimum continuing education requirement which may not be less than eight hours during a twelve-month registration. The board may accept for compliance with the continuing education requirement any of the following activities which may contribute directly to the dental education of the registrant:
 - a. Proof of attendance at a lecture, study club, college postgraduate course, or scientific session of a convention.
 - b. Proof of research, graduate study, teaching, or service as a clinician.
 - c. Proof of any other continuing education approved by the board.
2. The board may select a random sample of the registrants for audit of continuing education credits. Each registrant shall maintain certificates or records of continuing education credit. The board shall notify a registered dental assistant selected for a continuing education audit. If a registered dental assistant is selected for a continuing education audit, the dental assistant shall provide satisfactory documentation of attendance at or participation in the continuing education activities included on the registrant's sworn affidavit. The failure to comply with an audit may be grounds for nonrenewal of the registration. A dental assistant who fails to comply with the continuing education requirements may be reexamined by the board to determine the individual's competency to continue engaging in dental assisting activities. If the board determines that the dental assistant is not qualified, the board

shall suspend the registration until the individual provides acceptable evidence to the board of the individual's competency to practice as a dental assistant.